

Ordinance No.: 18-15  
Zoning Text Amendment No.: 16-13  
Concerning: Conditional Use –  
Screening  
Draft No. & Date: 2 – 9/15/16  
Introduced: August 2, 2016  
Public Hearing: September 13, 2016  
Adopted: September 20, 2016  
Effective: October 10, 2016

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND  
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF  
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN  
MONTGOMERY COUNTY, MARYLAND**

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Lead Sponsor: Council President Floreen at the Request of the  
Office of Zoning and Administrative Hearings

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**AN AMENDMENT** to the Montgomery County Zoning Ordinance to:

- amend the provisions for exempted parking design requirements for residential buildings;
- determine when the landscaping, lighting and screening requirements for parking associated with residential zones and uses apply; and
- generally amend design requirements for residential uses.

By amending the following sections of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code effective October 30, 2014:

DIVISION 6.2.	“Parking, Queuing, and Loading”
Section 6.2.5.	“Vehicle Parking Design Standards”
Section 6.2.9.	“Parking Lot Landscaping and Outdoor Lighting”
DIVISION 6.5.	“Screening Requirements”
Section 6.5.2.	“Applicability”
Section 6.5.3.	“Screening Requirements”

**EXPLANATION:** ***Boldface** indicates a Heading or a defined term.*  
*Underlining indicates text that is added to existing law by the original text amendment.*  
*[Single boldface brackets] indicate that text is deleted from existing law by original text amendment.*  
*Double underlining indicates text that is added to the text amendment by amendment.*  
*[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.*  
*\* \* \* indicates existing law unaffected by the text amendment.*

## OPINION

Zoning Text Amendment No. 16-13 was introduced on August 2, 2016 to exempt single-family detached houses from most of the detailed screening standards for Conditional Uses, except for compatibility. Council President Floreen is the lead sponsor of ZTA 16-07.

The Hearing Examiner found that the detailed screening standards are never actually applied to applications for a conditional use in a detached house. In the opinion of the Hearing Examiner, it is misleading to the public to have statutory standards that are never appropriate to apply in a class of cases.

The Planning Department routinely recommends common sense compatibility standards in applications concerning detached houses through the use of waivers or alternative compliance. Waivers of parking facility standards are permitted under §59.6.2.10. Alternative compliance is permitted under §59.6.8. The Hearing Examiner has authority under §7.1.3.E.1.b to apply Article 59-6 only “to the extent the Hearing Examiner finds necessary to ensure compatibility.”

In the opinion of the Hearing Examiner, the current code leads to much more verbiage than necessary. Planning Department staff must justify applications for waivers and alternative compliance. The Hearing Examiner then feels obliged to address all this analysis in their reports.

In its report to the Council, the Montgomery County Planning Board recommended approval of ZTA 16-13 as introduced. That identical recommendation was made by Planning staff.

The Council conducted a public hearing on September 13, 2016. There were no speakers other than the Planning Board’s representative.

On September 15, 2016, the Planning, Housing, and Economic Development Committee recommended approval of ZTA 16-13 with 2 amendments to avoid contradictory text.

For these reasons, and because to approve this amendment will assist in the coordinated, comprehensive, adjusted, and systematic development of the Maryland-Washington Regional District located in Montgomery County, Zoning Text Amendment No. 16-13 will be approved as amended.

## ORDINANCE

*The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance*

**Sec. 1. DIVISION 59-6.2 is amended as follows:**

**Division 6.2. Parking, Queuing, and Loading**

**\* \* \***

**Section 6.2.5. Vehicle Design and Parking Standards**

**A. Building Type Exemptions**

The vehicle parking design standards under Section 6.2.5.D, [and] Section 6.2.5.F through Section 6.2.5.H, and Section 6.2.5.K.2.b do not apply to a:

1. detached house;
2. duplex; or
3. townhouse that provides parking on individual lots.

**\* \* \***

**Section 6.2.9. Parking Lot Landscaping and Outdoor Lighting**

**A. Applicability**

Section 6.2.9[.] applies to any:

1. surface parking lot with 10 or more spaces;
2. structured parking facility; or
3. property with a conditional use requiring [3] 5 to 9 spaces that abuts an Agricultural, Rural Residential, or Residential Detached zoned property that is vacant or improved with an agricultural or residential use.

**B. Parking Lot Requirements for Conditional Uses Requiring [3] 5 to 9 Spaces**

[1.] If a property with a conditional use requiring [3] 5 to 9 parking spaces is abutting Agricultural, Rural Residential, or Residential Detached zoned property that is vacant or improved with an agricultural or residential use, the parking lot must have a perimeter planting area that:

[[a]] 1. satisfies the minimum specified parking setback under Article 59-4 or, if not specified, is a minimum of 8 feet wide;

[[b]] 2. contains a hedge, fence, or wall a minimum of 4 feet high; and

[[c]] 3. has a minimum of 1 understory or evergreen tree planted every 30 feet on center.

[2. The Hearing Examiner may increase the perimeter planting requirements for a conditional use application under Section 7.3.1.]

\* \* \*

**Sec. 2. DIVISION 59-6.5 is amended as follows:**

**Division 6.5. Screening Requirements**

\* \* \*

**Section 6.5.2. Applicability**

\* \* \*

**B. Agricultural, Rural Residential, and Residential Detached Zones**

In the Agricultural, Rural Residential, and Residential Detached zones, a conditional use in any building type, except a single-family detached house, must provide screening under Section 6.5.3 if the subject lot abuts property in an Agricultural, Rural Residential, or Residential Detached zone that is vacant or improved with an agricultural or residential use. All conditional uses must have screening that ensures compatibility with the surrounding neighborhood.

[1.] [[The conditional use standards under Article 59-3 may exempt the development from this requirement.]]

[2. The Hearing Examiner may increase the amount of screening required for conditional use approval under Section 7.3.1.]

**C. Residential Townhouse, Residential Multi-Unit,  
Commercial/Residential, Employment, and Industrial Zones**

In the Residential Townhouse, Residential Multi-Unit,

Commercial/Residential, Employment, and Industrial zones:

1. A conditional use in a [detached house or] duplex building type must provide screening under Section 6.5.3 if the subject lot abuts property in an Agricultural, Rural Residential, or Residential Detached zone that is vacant or improved with an agricultural or residential use.
  - a. The conditional use standards under Article 59-3 may exempt the development from this requirement.
  - b. The Hearing Examiner may increase [[or decrease]] the amount of screening required for conditional use approval under Section 7.3.1.

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**Section 6.5.3. Screening Requirements**

\* \* \*

**C. Screening Requirements by Building Type**

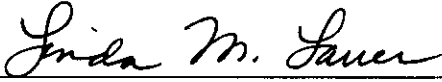
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7. **General Building with a Non-Industrial Use; Conditional Use in the Agricultural, Rural Residential, or Residential Detached Zones; and Conditional Use in a [Detached House or] Duplex in Any Other Zone**

\* \* \*

**Sec. 3. Effective date.** This ordinance becomes effective 20 days after the date of Council adoption.

This is a correct copy of Council action.



Linda M. Lauer, Clerk of the Council